IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF

TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 7422 of 2005

Between:

1 The Principal Secretary to Government, Panchayat Raj and Rural Development,
A.P. Secretariat, Hyderabad.
2 The Commissioner, Panchayat Raj and Rural Employment,
Urdu Hall Lane, Himayathnagar, A.P. Hyderabad.

..... PETITIONER(S)

AND

Sri Y. Jayanandam, M.P.D.O., Formerly M.P. Palakonda, now Bhamini, Srikakulam District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction more particularly one in the nature of a writ of Certiorari and calling for the records relating to the order passed in O.A.No. 6139/2003, dt. 4-11-2004 on the file of the Hon'ble A.P. Administrative Tribunal, Hyderabad and quash the same as illegal, arbitrary and pass such other order or orders as deemed fit and proper in the circumstances of the case.

Counsel for the Petitioners:GP FOR SERVICES II

Counsel for the Respondent : Mr. Amarender

The Court made the following Oral Order: (per Sri G. Bikshapathy,J)

This writ petition is filed assailing the orders of the Andhra Pradesh Administrative Tribunal, Hyderabad in O.A. No. 6139 of 2003, dated 4.11.2004.

2 . The respondent herein filed O.A. No.6139 of 2003 before the Tribunal seeking to declare the action of the petitioners in not regularizing the suspension period of the respondent and also in not granting the consequential attendant benefits even though the Tribunal has set aside the punishment order dated 3.3.2003 of the 2nd petitioner in O.A. No.1712 of 2003, dated 24.3.2003, as illegal and arbitrary and for consequential directions.

3 . The respondent was placed under suspension on 12.12.2000. But, however, the Collector has taken up the initiative and issued charge memo and thereafter conducted enquiry and ultimately imposed punishment of reduction of his seniority to the lowest rank. Aggrieved by the said order, the respondent filed O.A. No.1712 of 2003 and the said O.A. was disposed of leaving it open to the department to initiate further proceedings in accordance with Rule 20 of A.P.C.S. (CCA) Rules, 1991. Thereafter, it appears that further enquiry was initiated under Rule 20 and no final orders were passed. In the meanwhile, the respondent filed O.A.

No. 6139 of 2003 seeking to regularize the suspension period and to grant the consequential benefits.

4. The Tribunal having considered the matter, allowed the O.A. by observing as follows:

> "However, a similar question came up before this Tribunal in O.A. 5838 of 2004 and this Tribunal by its order dt. 14.10.2004 passed the following orders:
>
> "As the O.A. is also identical to that of aforementioned O.A., this case is also disposed of following the orders issued by the Tribunal, dated 27.3.2003 in the said O.A. No.1853 of 2003.

Thus, the Respondents are directed to sanction the increments during the period the applicant was under suspension and also work out the pay scale of the applicant to which he is entitled based on the Revised Pay Scales, 1993 and 1998 in accordance with rules and also to calculate enhanced subsistence allowance as per rules based on the increments which were due during the period of suspension and Revised Pay Scales, 1993 and 1998. The Respondents are further directed to release the increments of the applicant after his reinstatement, if no orders withholding the increments of the applicant have been passed by the competent authority. The above exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order. The O.A. is disposed of accordingly."

As the facts and circumstances of the aforesaid O.A. are identical to this O.A. this O.A. is also disposed of in terms of the orders issued by the Tribunal in O.A. 5838 of 2004, dt. 14.10.2004 as under:

The Respondents are directed to release the increments that fell due during the period the applicant was under suspension and revise the subsistence allowance accordingly by adding the increments fell due during the period of suspension. Respondents are also directed to extend the benefits of Revised Pay Scales of 1993 and 1998 as per his eligibility from the date these scales became due in respect of the applicant.

(Office is directed to enclose a copy of order dt. 14.10.2004 in O.A. No.5838 of 2003 to this order.)"

5. Learned Government Pleader submitted that the impugned order passed by the Tribunal is not sustainable in law inasmuch as departmental enquiry is still not completed and therefore regularization of suspension period will be subject to the result of the departmental enquiry and the Tribunal ought to have dismissed the application of the respondent as premature.

6. We are afraid, we cannot accept the contention of the learned Government Pleader. Admittedly, the departmental enquiry conducted by the Collector was found to be incompetent and therefore the punishment order was set aside as it is bad in the eye of law. Therefore, there is no punishment and the consequences for illegal punishment would enure to the benefit of the employee. Therefore, the Tribunal directed for regularization of the suspension period and for release of other benefits. Under those circumstances, we do not find any ground to interfere with the order passed by the Tribunal.

7. The writ petition is accordingly dismissed. No costs.

G.BIKSHAPATHY,J

Date: 11.4.2005

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P.S. NARAYANA,J

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To

1. The Registrar, A.P. Administrative Tribunal, Hyderabad.
2. The Principal Secretary to Government, Panchayat Raj & Rural Development, A.P., Secretariat, Hyderabad.
3. The Commissioner, Panchayat Raj & Rural Employment, A.P. Secretariat, Hyderabad.
4. Two C.Cs. to the Government Pleader for Services – II, High Court Buildings, Hyderabad. (OUT)
5. Two C.D. copies